

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. CR02-69Z

Plaintiff,

PROPOSED FINDINGS OF
FACT AND DETERMINATION
AS TO ALLEGED VIOLATIONS
OF SUPERVISED RELEASE

v.

KELLY RAY BURNS,

Defendant.

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on November 15, 2005. The United States was represented by Annette Hayes. The defendant was represented by Peter Avenia. The proceedings were recorded on disk.

CONVICTION AND SENTENCE

Defendant had been convicted of Conspiracy to Possess with Intent to Distribute Methamphetamine, Cocaine, and Marijuana on or about May 18, 2002. The Hon. Thomas S. Zilly of this court sentenced Defendant to 70 months of confinement, followed by 5 years of supervised release.

The conditions of supervised release included requirements that defendant comply with the standard 13 conditions.

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DEFENDANT'S ADMISSION

USPO Angela McGlynn appearing for Monique Neal alleged that Defendant violated the conditions of supervised release in five respects:

- (1) Failing to submit written monthly reports to the U.S. Probation office within the first five days of the month beginning October 2004 through June 2005, in violation of standard condition #2.
- (2) Using methamphetamine on or about April 21, 2005, May 12, 2005 and June 16, 2005, in violation of standard condition #7.
- (3) Failing to report for drug testing as directed by the U.S. Probation Office on March 16, March 29, March 31, April 7, April 13, April 19, May 10, May 19, May 25, and June 7, 2005, in violation of the special condition that the defendant participate in a program approved by the probation office for treatment of narcotic addiction or drug or alcohol dependency, which may include testing and examination to determine if the defendant has reverted to the used of drugs or alcohol.
- (4) Failing to successfully complete placement at a comprehensive sanction center by being terminated from the program, in violation of the special condition that he participate in the program for 120 days.
- (5) Failing to participate in substance abuse treatment, in violation of the special condition that the defendant participate as instructed by the probation office in a program for treatment of narcotic addition of drug dependency.

At an initial hearing, I advised the defendant of these charges and of his constitutional rights. At today's hearing Defendant admitted the violations #1-5, waived any hearing as to whether it occurred, and consented to having the matter set for a disposition hearing before the Hon. Thomas

S. Zilly

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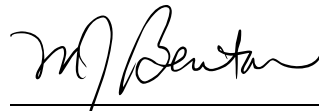
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1 RECOMMENDED FINDINGS AND CONCLUSIONS

2 Based upon the foregoing, I recommend the court find that Defendant has violated the
3 conditions of his supervised release as alleged; and set the matter for a disposition hearing.

4 Defendant has been detained pending a final determination by the court.

5 DATED this 21st day of November, 2005.

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10 MONICA J. BENTON

11 United States Magistrate Judge

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14 cc: Sentencing Judge : Hon. Thomas S. Zilly
 Assistant U.S. Attorney : Annette Hayes
15 Defense Attorney : Peter Avenia
 U. S. Probation Officer : Monique Neal